49

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No.7377 of 2007

PETITIONER Khushiram Netam, aged about 41 years, S/o Sukuram Netam, By Caste Gond, R/o Dumarpara, Singarbhar, Tahsil and District Kanker (C.G.)

Versus

RESPONDENTS

1. The State of Chhattisgarh, through Secretary, Ministry of Women and child Welfare Department, D.K.S. Bhawan, Raipur.
2. The Collector, Kanker.
3. Project Officer, Mahila and Bal Vikas Vibhag, District Kanker
4. Ram Prasad, Peon, Mahila and Bal Vikas, Kanker

(Writ Petition under Article 226 of the Constitution of India)

Appearance:

Shri Parag Kotecha, Counsel for the petitioner.

Shri A.S. Kachhwaha, Govt. Advocate for the State on advance copy.

ORAL ORDER
(17.12.2007)

SUNIL KUMAR SINHA, J.

Heard.

The petitioner, who is working on the post of Peon, has been transferred from Mahila Evam Bal Vikas Pariyojna, Kanker to Mahila Evam Bal Vikas Pariyojna, Antagarh on administrative grounds.

Learned counsel for the petitioner submits that since the house of the petitioner is under construction and he has demanded for part payment of the gratuity amount, he has been transferred from his present place of posting to Antagarh.

The ground raised by the petitioner for holding the order of transfer as a malafide order does not appear to be bonafide. It cannot be presumed that on the ground of demanding part payment of gratuity amount, somebody would be malafidely transferred from his present place of posting, because, he may make such demand in his new place of posting also.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also in the public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafide or extraneous considerations or is against any statutory Rules or Act, it cannot be interfered by a Court of Law.

Learned counsel for the petitioner could not point out any ground of malafide, or extraneous considerations or that the order has been passed against any Statutory Rule or the Act.

In view of the above, I am not inclined to admit this petition for hearing against the impugned order dated 22/7/2007.

The petition has to be dismissed for the relief of setting aside of the transfer order of the petitioner and the same is accordingly dismissed.

Besides the above, the petitioner has also prayed vide relief No.2 that the respondents be directed to grant the benefit of *Kramonati* to the petitioner from the date of completion of 12 years of his service.

It appears to me that the incident of transfer of the petitioner and not granting *Kramonati* are two different cause of actions and the incident appears to be one of misjoinder of cause of action.

For this relief, the petitioner has to file a different petition, because, these two cause of actions are neither co-related nor intermixed and the same cannot be joined with each other in a common petition.

In view of the above, the petition for such relief is not admitted and the same is accordingly disposed of.

However, the petitioner would be at liberty to file another petition for the relief of *Kramonati*.

With the aforesaid observations and liberty, this petition stands finally disposed of.

Sd/-
Sunil Kumar Sinha
Judge

Dhyna